IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5946 OF 2005

Akhil Bhartiy Grahak Panchayat,
Nashik Mahanagar, through its President
Madya Maharashtra:
Dilip Balkrishan Phadake .. Petitioner
v/s.
Maharashtra State Electricity Board and others .. Respondents

Mr.S.S.Patwardhan for the petitioner.

Mr.L.M.Acharya for the respondent No.1.

Mr.G.S.Godbole with Mr.Nitin Mulye for the respondent No.4.

CORAM : R.M.LODHA &
NARESH H. PATIL, JJ.

DATED : 24TH JULY, 2006.

P.C.

Akhil Bhartiya Grahak Panchayat claims to be an organisation dedicated to the cause of consumers. It seeks to challenge the appointment of Shri Jeevan Ambadas Vaishampayan as member of Forum for Redressal of Consumers Grievances, Nashik.

2. The counsel for the petitioner crystalised the challenge to the appointment of respondent No.4 as member of Forum for Redressal of Consumer Grievances, Nashik on three grounds: (i)

that the respondent No.4 has not been working as representative of registered voluntary Consumer Protection Organisation of the area for at least five years; (ii) that he is retired employee of the Maharashtra State Electricity Board (Distribution Licensee) and as per the policy of the Board, retired employees are not appointed as Member of for the Forum for Redressal of Consumer Grievances and (iii) that the respondent No.4 was holding a very low post and, therefore, not fit to be associated with the other two members who happen to be retired senior judicial officer or retired senior civil servant and a person not below the rank of Executive Engineer of the Board or a person of equivalent rank.

3. The Distribution Licensee- MSEB has filed reply affidavit and stated that the respondent No.4 has been working in the field of Redressal Consumer Grievances for the last 16 years being associated with Nashik Zilla Grahak Panchayat. The Board has denied that there is any policy decision for not appointing its ex-employees as member on the Forum of Redressal of Consumer Grievances.

4. The respondent No.4 has filed separate reply affidavit and has stated that he has been working in the field of Consumer Redressal for the last about 10 years. It is also stated that there is no allegation against him regarding his working as member of the Forum.

5. Regulation 4 of the Maharashtra Electricity Regulatory

Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2003 (for short, `Regulations 2003') interalia provides for Constitution of Forum for Redressal of Consumer Grievances. Regulation 4.1 that is relevant for our purposes reads thus-

> "4.1 Each Forum shall be constituted by the Distribution Licensee consisting of three members, who shall meet the following criteria:
>
> (1) The Chairperson of the Forum shall be a retired senior judicial officer; or a retired civil servant not below the rank of a Collector; or a retired Principal of a reputed Engineering college; or a retired Professor of the Electrical Engineering Department of a reputed institute; or a retired senior electrical engineer of the Government.
>
> (2) One member shall be a person not below the rank of an executive engineer of the Board or person of equivalent rank, in case of other Distribution Licensee.
>
> (3) One member shall be a representative of a registered voluntary consumer protection organization of the area, working preferably for at least five (5) years on matters concerning consumer grievances:
>
> Provided that in case the Distribution Licensee has less than one lac (1,00,000) consumers in its area of supply in the State of Maharashtra, the Forum may consist of a single member, who shall fulfill the eligibility criteria of sub-clause (1) above:
>
> Provided that where the Chairperson is absent from a sitting of the Forum, the technical member shall be the Chairperson for such sitting."

6. From the reply filed by the MSEB as well as by respondent No.4, it is more than clear that the respondent No.4 has been associated with the working in the field of Consumer Redressal Forum for more than five years. There is no rejoinder by the petitioner challenging this fact. It can, thus, safely be assumed that respondent No.4 has been working for at least five years on matters concerning Consumer Grievances. The first contention is overruled.

7. That there is no policy of the MSEB of not appointing its erstwhile employee to the Forum is apparent from the reply affidavit filed by the Board. The so-called policy seems to be petitioner's imagination which cannot be accepted on the face of the categorical denial by MSEB. The second contention is also overruled.

8. Merely because, the respondent No.4 has not been holding very high position in MSEB does not mean that he cannot independently and objectively consider the matters brought before him in the Forum which is headed by a retired judicial officer or retired civil servant of not below the rank of Collector and a person who is not below the rank of Executive Engineer of the Board or a person of the equivalent rank.

9. The third contention raised by the counsel for the petitioner is also devoid of any substance.

10. Writ petition is wholly misconceived and is dismissed in limine.

(R.M.LODHA, J.)

(NARESH H. PATIL, J.)